

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KATHERINE BAUERS-TOY,

Plaintiff,

v.

DECISION AND ORDER
10-CV-845

CLARENCE CENTRAL SCHOOL DISTRICT,

Defendant.

The instant matter was referred to Magistrate Judge Leslie G. Foschio pursuant to 42 U.S.C. §636(b)(1) for supervision of all pre-trial proceedings. On September 14, 2012, defendant filed a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. (Dkt. No. 20). On February 6, 2014, Magistrate Judge Foschio issued a comprehensive Report and Recommendation recommending that defendant's motion for summary judgment be granted in part and denied in part. (Dkt. No. 30) Specifically, the Magistrate Judge recommended granting defendant's motion for summary judgment as to plaintiff's claims of age discrimination, sex discrimination, and retaliation, but denying summary judgment with respect to plaintiff's hostile work environment claim. *Id.*

On March 6, 2014, defendant filed objections to Magistrate Foschio's recommendation to deny summary judgment as to the hostile work environment

claim. (Dkt. No. 33) Plaintiff filed a response on March 20, 2014 (Dkt. No. 34) and defendant replied on March 27, 2014 (Dkt. No. 35). Oral argument was held on April 3, 2014, at which time the Court considered the matter submitted.

Pursuant to 28 U.S.C. §636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review, and after reviewing the submissions from the parties and hearing oral argument, the Court hereby adopts Magistrate Judge Foschio's findings in their entirety.¹

Accordingly, defendant's motion for summary judgment is denied with respect to plaintiff's claim of hostile work environment, but is otherwise granted. The parties are instructed to appear before the Court on June 9, 2014 at 9:00 a.m. for a status conference and/or meeting to set a trial date. Prior to that appearance, plaintiff is instructed to file an amended complaint.

SO ORDERED.

_____*Richard J. Arcara*_____
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: April 29, 2014

¹ With respect to the portions of the Report and Recommendation to which no objections have been filed, the Court finds that they are neither clearly erroneous nor contrary to law, and should be adopted in their entirety. See 28 U.S.C. §636(b)(1)(A).